

REMARKS

This Amendment is in response to the Official Action dated March 27, 2002. In this Amendment, Claims 1 and 24-64 have been cancelled, and Claims 65-120 have been added. Claims 65-77 correspond to allowable Claims 32-35, 42-47 and 59-62 respectively. Minor amendments have been made, however, to meet the objections in the Official Action under 35 U.S.C. §112, second paragraph, set forth in paragraphs 2 and 6 of the Official Action.

Three patents were utilized for rejecting claims under 35 U.S.C. §102 which includes all claims except those which were found allowable and Claims 28 and 29 which generally correspond to Claims 82 and 83 herein. The three patents which were utilized for the rejections under 35 U.S.C. §102 are:

U.S. Patent No. 5,279,012, to Sloan, which issued January 18, 1994;

U.S. Patent No. 5,569,371, to Perling, which issued October 29, 1996; and

U.S. Patent No. 6,299,699, to Porat et al, which issued October 9, 2001.

All of the references are for submerged cleaning devices wherein the parts (except lip 34B in Sloan) which contact the underlying surface are rotatable. In addition, in each of these references, the cleaning apparatus is powered by a non-submerged power source. In the Sloan reference, power is provided by hydraulic lines 42 and 44 which drive a hydraulic motor 28 which, in turn, rotates an auger 18. It should be noted, however, that the Sloan reference in Figure 7 shows a neoprene flexible sealing lip 34B which it drags along the floor 13 and that effectively seals the gap between the plate 34 and the floor against leakage of sludge material to be removed by auger 18.

The patents to Perling and Porat et al are for cleaning the bottoms of swimming pools. Perling discloses a cable 22 which leads to a power source. Movement of the apparatus is

provided by plastic traction brushes 2 and 4 which are independent driven by respective motors 6 and 8. Except for the material which might be picked up by brushes 2 and 4, the Perling apparatus cleans the bottom of a swimming pool by means of suction.

The Porat et al reference discloses a power cord 24 which extends from an external power source. The traction means 14A and 14B are roller brushes fabricated from molded elastomeric polymer such as PVA. Porat et al also disclose pulleys 18 which are independently powered by traction motors 30A and 30B.

The independent claims which were acted on in the Official Action were Claims 24 and 63, which correspond generally to Claims 78 and 119 (for prior Claim 24) above and Claim 117 (for prior Claim 63). These include limitations to the effect that the manure displacing means is non-rotatable and provides support for a major part of the vehicle's weight. Also an additional limitation has been included in Claims 117 and 120 that the vehicle is not connected to an external power source.

With these limitations it should not be assumed that because the language which is now included in the new claims which avoids the references of Sloan, Perling and Porat et al that these references may be appropriately considered to be in an analogous art field. The problems for submerged cleaning devices differ significantly from those which are not submerged. Moreover, the material to be cleaned in a cow shed or stable, such as manure is, in general, quite different from that encountered in swimming pools or even sludge that accumulates at the bottom of tanks. Although to some degree there may be overlapping insofar as the guidance means are concerned, the guidance means involved cooperate with distinctive types of apparatus in distinctive environments. Insofar as the instant invention is concerned, Applicant has recognized the importance of locating the manure displacing means more or less centrally in the vehicle so that it affords major support for the vehicle in its cleaning operations. This, at the same time,

means that the major portion of the weight of the vehicle is bearing down on the manure displacing means thus increasing its cleaning effectiveness. This concept is not suggested in the prior art.

Claims 28 and 29 were rejected under 35 U.S.C. §103 on the basis of the patent to Perling which is discussed above. It is stated that Perling discloses an unmanned vehicle as described previously but which lacks the propelling members comprising a wheel or caterpillar track. It is then opined in the Official Action that it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the propelling means with wheels or caterpillar tracks since the Examiner takes official notice of the equivalence of wheels and caterpillar tracks and traction brushes for their use in propelling in the propelling art and the selection of any of these known equivalents to propel a vehicle would be within the level of the ordinary skill in the art. As indicated above, Claims 28 and 29 generally correspond to Claims 82 and 83 above. The rejection of such claims under 35 U.S.C. §103 is traversed. Wherein an invention arises from a combination of old elements, which is almost always the situation, the circumstance that such old elements may be found in the prior art is not sufficient, as such, to defeat the patentability of the whole claimed invention. Rather, to establish obviousness under 35 U.S.C. §103 based on a combination of elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the Applicant. This is true even though the alleged obviousness is based on a single prior art reference. In such case there must be a showing of a suggestion or motivation to modify the teachings of that reference. Although such showing may be explicit or implicit, it must be substantial. Although in certain circumstances, wheels and caterpillar tracks may be considered equivalents, this cannot be assumed. They are different and the selection of one or the other may, in itself, constitute unobvious invention. This is particularly the case for the

instant invention. For example, caterpillar tracks provide a better traction but the steering of a vehicle having such tracks is certainly different and generally more complex than for wheels which may swivel. It is submitted that claims should not be rejected by finding or referring to prior art corollaries for the elements in claims. Doing so suggests that the claimed invention itself is being used as a blueprint for piecing together elements of the prior art to defeat patentability of the claimed invention. To avoid this weakness in the obviousness construct, the requirement for a suggestion in the prior art to make the combination claimed is a critical safeguard against hindsight analysis and rote application of the legal test for obviousness.

The filing date of the Application on the Official Action is incorrect. It should be January 19, 2001.

This Application, in its amended form, had a total of forty-two (42) claims, two (2) of which were independent claims. As amended herein, there are a total of fifty-six (56) claims (fourteen additional claims) and a total of seventeen (17) independent claims (fourteen claims in addition to three claims covered by the filing fee). Accordingly, it appears that an additional fee of \$714.00 is required for the additional claims (total and independent) and our check in such amount is submitted herewith. However, if this is in error, the Commissioner of Patents and Trademarks is authorized to credit or debit our Account No. 13-2000 as appropriate.

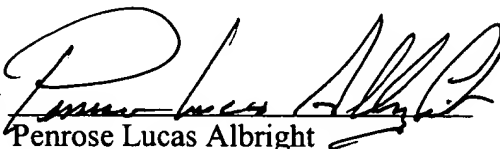
Further consideration and reexamination of this Application, in its amended form, is requested in view of 35 U.S.C. §132 and regulations in implementation thereof. It is submitted the Application in its amended form is free from ambiguity and avoids the references of record. It is further submitted the Examiner should have no difficulty in finding that the differences between the subject matter sought to be patented in this Application and prior art and usage within his expert knowledge are such that the subject matter as a whole would not have been

obvious at the time the invention was made to persons having ordinary skill in the art to which the subject matter of this Application pertains.

In view of the foregoing, the allowance of claims as now presented is earnestly solicited.

Respectfully submitted,

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